

On Behalf of West

Testimony of

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**Before the Subcommittee on Commerce, Trade, and Consumer Protection,
Energy and Commerce Committee, U.S. House of Representatives**

May 11, 2005

Introduction

Chairman Stearns, Congresswoman Schakowsky, Members of this distinguished Committee: Thank you very much for allowing West the opportunity to present testimony before this hearing of the Energy and Commerce Committee's Subcommittee on Commerce, Trade, and Consumer Protection. I commend you for continuing the Committee's tradition of ardent and principled investigation and legislative oversight of so many of the issues that touch each of us every day.

My name is Steve Buege. I'm senior vice president of Business Information News and Public Records. In that role for West, I oversee our news, business information and public records content on Westlaw, and together with the president and CEO of West, I oversee the policies governing procurement of and access to that information.

Prior to this, I was vice president of Operations for West, where Customer Experience, Technology and Content Operations reported into me. Prior to that, I was Chief Technology Officer for four years. In my work with the company, spanning now some 20 years, I've participated in some of its most important transformations. I have intimate knowledge of its technology, its business and its values. And I am proud of my association with the business.

About West and our Customers

West has been serving the same niche customer base – exclusively legal and government professionals – for more than 125 years. Our company founder, John B. West, started West Publishing in 1872 as a regional book and office supply seller for attorneys in the Midwest. Eventually, West covered judicial opinions from every state, circuit and appellate court and the U.S. Supreme Court.

Our core market has remained legal and government customers for more than a century. West maintained this focus on the B2B market while transitioning from a traditional legal book publisher to a leader in the information technology revolution. In 1975, West introduced its first online legal research service, Westlaw. We've been a pioneer in e-commerce ever since. We embraced the Internet, and electronic publishing is at the heart of our business today.

The West name – from West Publishing to Westlaw – has long been known as an authoritative, trustworthy source for the U.S. bench and bar. This market recognizes Westlaw as the premier online legal research service; it offers the world's largest databases of legal research materials, statutes, case law, legal treatises and business information.

West has been acutely focused on security and privacy issues, especially in the last 10 years as access to electronic information has increased significantly. We consider ourselves stewards of data privacy. West was a founding member of the Individual Reference Services Group (IRSG). The 1997 IRSG Principles defined a balance between personal privacy and the important societal benefits of reference services. West used these principles to establish procedures for qualifying its users, with only government agencies and a very small number of professional users receiving qualified access to full Social Security numbers.

Today, West still refers to the IRSG Principles for guidance about our collection and distribution of information. For example, although the Gramm-Leach-Bliley Act's privacy rule permits distribution of information – including full Social Security numbers – to any entity that fits within the exception to the rule, West limits distribution of full Social Security numbers to specific government agencies – going beyond the requirements of GLBA.

Overview of the Public Records Market

According to our research, the U.S. public records market represents about \$7 billion dollars annually. Within this space, \$1 billion is focused on the crime/law enforcement/prosecution area; approximately \$160 million of that space is focused on usage within the legal market. Of this \$160 million, only a fraction relates to records with full Social Security numbers. For our legal businesses, databases with full Social Security numbers only account for a fraction of 1 percent of our revenues.

It's important to note that only vetted government customers who deal with law enforcement, investigatory or homeland security issues have access to full Social Security numbers. None of our corporate clients have this access.

Our Privacy Policies

West's customers work in law firms, the courts, government and corporate legal departments. Much of the information our customers need to do their jobs and serve our legal justice system is, by its very nature, sensitive.

West has always been a good steward of this sensitive information, and we are deeply committed to ensuring that we achieve the proper balance between making information available for legitimate business and governmental purposes and respecting people's expectations of privacy.

Given the attention this issue has received in Washington and in the media during the past few months, we have carefully reviewed our policies and made significant changes concerning access. Throughout this process, our ultimate test was *to do the right thing*. Our record proves that we're on the right track.

Since February, West has reviewed the very small number of customers who had access to full Social Security numbers and further restricted which customers are allowed such access. We removed access to full Social Security numbers for about 85 percent of the accounts who had it, and blocked this type of access to all non-government accounts. Today, most customers who can access full Social Security numbers are government agencies involved in crime prevention, prosecution and homeland security – primarily the Federal Courts, the Department of Justice and the IRS. We also have some smaller accounts – all in the areas of law enforcement and homeland security as well – with access to full Social Security numbers. All these accounts are carefully vetted. It's important to note that we have never granted *ad hoc* access to full Social Security numbers and that West serves a specialized market of legal and government professionals – not a consumer-oriented market.

Opt-in policy

In the past few months, West has worked with our government customers to fully institute an opt-in policy; that is, a policy that assumes a government account will *not* have full access to Social Security numbers. Under this new policy, accounts that need access to full Social Security numbers will be granted access only to specified and qualified individuals. Moving forward, *all* new contracts West enters with government agencies will be opt-in only.

Enhanced usage tracking and Westlaw reminders

West also has introduced new procedures to monitor databases that contain Social Security numbers for unusual use patterns, and on a go-forward basis, customers permitted to view full Social Security numbers on Westlaw will see a special notification message any time they access these databases. This message will remind the user that he or she is among a limited number of people given privileged access to this information, and that it must be used

only for appropriate purposes and in compliance with the law and the privacy terms West imposes. This will ensure that individual users are aware of their responsibility in accessing Social Security numbers as well as their unique privilege to use this information.

West's policy goes well beyond what's required under various privacy laws. We are committed to working with this Committee to fully explore this complex issue. We also hope to work with you, federal agencies and the industry to ensure that the public is protected from fraud and that those committed to fighting and prosecuting these crimes will have the information they need to do their important work.

Privacy Guidelines and Regulations

And that is why I'm here today. West recognizes the need for guidelines, and we would welcome the opportunity to work with you to advance a variety of approaches. From our business perspective, here are some areas where we welcome clarity and guidance:

- Establishing a uniform notification system that informs customers whose data may have been compromised
- Allowing a government agency to have an appropriate regulatory role over public data providers, similar to the regulatory role the Federal Trade Commission currently has regarding data matters in financial institutions
- Requiring senior management in data companies that deal with Social Security numbers to sign off on a business's security and privacy arrangements

Also, you may want to consider the following ideas that haven't been as widely discussed:

- Legislation that would establish a universally applied method for masking Social Security numbers. (Now there are several common ways that entities mask Social Security numbers.

Some mask the first five digits and others truncate the last four. This might allow someone to determine a full Social Security number by using two differently masked numbers.)

- Encouraging each business in this space to find an alternative technology solution – instead of Social Security numbers – to create a unique locator that distinguishes one individual with the same name from another. This approach would be specific to each business; it wouldn't be uniform across the industry.

Conclusion

Thank you for your interest, your hard work and allowing West to be part of your discussion. I look forward to continuing to work with you on this important matter as we balance individuals' rights to privacy with the national concern for justice and homeland security.